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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,299	07/09/2003	Louise F. Stoll	STO-103-CIP-CON	7115
28970	7590	12/10/2003	EXAMINER	
SHAW PITTMAN IP GROUP 1650 TYSONS BOULEVARD SUITE 1300 MCLEAN, VA 22102			WHITE, RODNEY BARNETT	
			ART UNIT	PAPER NUMBER
			3636	

DATE MAILED: 12/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.		Applicant(s)	
	10/615,299		STOLL, LOUISE F.	
	Examiner		Art Unit	
	Rodney B. White		3636	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 November 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 25-43 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 25-43 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) <u>2</u> | 6) <input type="checkbox"/> Other: _____ |

D tailed Action

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 25-43 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8-21 of U.S. Patent No. 6,402,251 and claims 1-14 of U.S. Patent No. 6,616,242. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claimed subject matter is claimed in the aforementioned patents either in slightly different language or more detailed and more structure.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 25-26 and 28-30 are rejected under 35 U.S.C. 102(b) as being anticipated by Frazier (U.S. Patent No. 5,673,969).

Frazier teaches a vehicle passenger safety device 10 for use on a vehicle seat that has a back-support and a seat belt, the device comprising a back-support portion 18, *a body strap assembly attached to a front part of the back-support portion wherein the body strap assembly 20 is adapted to secure a passenger on the device, and means for attaching the back-support portion to the back-support of the vehicle seat, means 32 or 74 for receiving the seat belt 12 to secure the device on the vehicle seat, the receiving means comprises one or more loops, the receiving means 74 is attached to a back part of the back-support portion, wherein the receiving means is permanently attached to the back support portion at a position substantially near the bottom of or beneath the back-support portion, wherein the attaching means comprises one or more of a horizontal strap and strap web, wherein the attaching means is located on a back part of the back-support portion at a position at the midpoint of the back-support portion or higher.*

Claims 25-27, 29, 33, and 35-37 are rejected under 35 U.S.C. 102(b) as being anticipated by Tsao (U.S. Patent No. 6,006,967).

Tsao teaches a vehicle passenger safety device 1 for use on a vehicle seat that has a back-support and a seat belt, the device comprising a back-support portion 2, a

body strap assembly attached to a front part of the back-support portion wherein the body strap assembly 22,223,24,221 is adapted to secure a passenger on the device, and means for attaching the back-support portion to the back-support of the vehicle seat (See Figures 4A-4B), means 29,291,30,301, for receiving the seat belt to secure the device on the vehicle seat, the receiving means is part of the body strap assembly,, the receiving means is attached to a back part of the back-support portion.

Claims 25, 31-33, and 35 are rejected under 35 U.S.C. 102(b) as being anticipated by McDonald (U.S. Patent No. 289,115).

McDonald teaches a vehicle passenger safety device for use on a vehicle seat that has a back-support and a seat belt, the device comprising a back-support portion **B,C**, a body strap assembly **D** attached to a front part of the back-support portion wherein the body strap assembly is adapted to secure a passenger on the device, and means for attaching the back-support portion to the back-support of the vehicle seat, wherein the attaching means comprises one or more of a horizontal strap and strap web, wherein the attaching means is located on a back part of the back-support portion at a position at the midpoint of the back-support portion or higher.

Claims 25-27, 28-30, and 33-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Doering (U.S. Patent No. 3,604,750).

Doering teaches a vehicle passenger safety device for use on a vehicle seat that has a back-support and a seat belt, the device comprising a back-support portion 11,62,

a body strap assembly attached to a front part of the back-support portion wherein the body strap assembly 49, 76, 77 is adapted to secure a passenger on the device, and means for attaching the back-support portion to the back-support of the vehicle seat, means for receiving the seat belt to secure the device on the vehicle seat, the receiving means comprises one or more loops 47, 87, 88 wherein the attaching means comprises one or more of a horizontal strap and strap web, wherein the attaching means is located on a back part of the back-support portion at a position at the midpoint of the back-support portion or higher.

Claims 25-27, 28-30, and 33-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Golder (U.S. Patent No. 5,310,242).

Golder teaches a vehicle passenger safety device for use on a vehicle seat that has a back-support and a seat belt, the device comprising a back-support portion 18, *a body strap assembly attached to a front part of the back-support portion wherein the body strap assembly 30 is adapted to secure a passenger on the device, and means for attaching the back-support portion to the back-support of the vehicle seat, means for receiving the seat belt to secure the device on the vehicle seat, the receiving means comprises one or more loops formed by crotch strap 36 (see column 3, lines 63-68) wherein the attaching means comprises one or more of a horizontal strap 32 and strap web, wherein the attaching means is located on a back part of the back-support portion at a position at the midpoint of the back-support portion or higher.*

Claims 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Smith et al (U.S. Patent No. 5,499,860).

Smith et al teach a vehicle passenger safety device for use on a vehicle seat that has a back-support and a seat belt, the device comprising a back-support portion, a *body strap assembly attached to a front part of the back-support portion wherein the body strap assembly is adapted to secure a passenger on the device, and means for attaching the back-support portion to the back-support of the vehicle seat.*

Claims 25, 31-33, and 35-36 rejected under 35 U.S.C. 102(b) as being anticipated by Schraeder et al (U.S. Patent No. 4,702,523).

Schraeder et al teach a vehicle passenger safety device for use on a vehicle seat that has a back-support and a seat belt, the device comprising a back-support portion, a *body strap assembly attached to a front part of the back-support portion wherein the body strap assembly is adapted to secure a passenger on the device, and means for attaching the back-support portion to the back-support of the vehicle seat, wherein the attaching means comprises one or more of a horizontal strap 8, wherein the attaching means is located on a back part of the back-support portion at a position at the midpoint of the back-support portion or higher..*

Claims 25 is rejected under 35 U.S.C. 102(b) as being anticipated by Abe et al (U.S. Patent No. 3,992,028).

Abe et al teach a vehicle passenger safety device for use on a vehicle seat that has a back-support and a seat belt, the device comprising a back-support portion, a *body strap assembly attached to a front part of the back-support portion wherein the body strap assembly is adapted to secure a passenger on the device, and means for attaching the back-support portion to the back-support of the vehicle seat.*

Claims 25 is rejected under 35 U.S.C. 102(b) as being anticipated by McLennan(U.S. Patent No. 4,093,307).

McLennan teaches a vehicle passenger safety device for use on a vehicle seat that has a back-support and a seat belt, the device comprising a back-support portion, a *body strap assembly attached to a front part of the back-support portion wherein the body strap assembly is adapted to secure a passenger on the device, and means for attaching the back-support portion to the back-support of the vehicle seat.*

Claims 25 are rejected under 35 U.S.C. 102(b) as being anticipated by Meyer(U.S. Patent No. 2,237,057).

Meyer teaches a vehicle passenger safety device for use on a vehicle seat that has a back-support and a seat belt, the device comprising a back-support portion, a *body strap assembly attached to a front part of the back-support portion wherein the body strap assembly is adapted to secure a passenger on the device, and means for attaching the back-support portion to the back-support of the vehicle seat.*

Claims 25-28, 33-36, and 38-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Alexander et al (U.S. Patent No. 4,871,210).

Alexander et al teach a vehicle passenger safety device for use on a vehicle seat that has a back-support and a seat belt, the device comprising a back-support portion, a *body strap assembly attached to a front part of the back-support portion wherein the body strap assembly 24 is adapted to secure a passenger on the device, and means 11 for attaching the back-support portion to the back-support of the vehicle seat, means 42 for receiving the seat belt to secure the device on the vehicle seat, the receiving*

means comprises one or more loops formed by crotch strap 42 19 wherein the attaching means comprises one or more of a horizontal strap 19, wherein the attaching means is located on a back part of the back-support portion at a position at the midpoint of the back-support portion or higher.

Claims 25-28, and 31-33, 35, 38-39, 40-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Allum (U.S. Patent No. 5,354,121).

Allum teaches a vehicle passenger safety device for use on a vehicle seat that has a back-support and a seat belt, the device comprising a back-support portion, a *body strap assembly attached to a front part of the back-support portion wherein the body strap assembly 24 is adapted to secure a passenger on the device, and means 11 for attaching the back-support portion to the back-support of the vehicle seat, means 42 for receiving the seat belt to secure the device on the vehicle seat, the receiving means comprises one or more loops formed by crotch strap 42 19 wherein the attaching means comprises one or more of a horizontal strap 19, wherein the attaching means is located on a back part of the back-support portion at a position at the midpoint of the back-support portion or higher.*

Claims 25, and 31-33, 35-36, 38, 40-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Davis (EP. Patent No. EP 0 410 693 A1).

Davis teaches a vehicle passenger safety device for use on a vehicle seat that has a back-support and a seat belt, the device comprising a back-support portion 1, a *body strap 16, 26 assembly attached to a front part of the back-support portion wherein the body strap assembly is adapted to secure a passenger on the device, and means*

9, 11 for attaching the back-support portion to the back-support of the vehicle seat, means 42 for receiving the seat belt to secure the device on the vehicle seat, the receiving means comprises one or more loops formed by crotch strap 42 19 wherein the attaching means comprises one or more of a horizontal strap 19, wherein the attaching means is located on a back part of the back-support portion at a position at the midpoint of the back-support portion or higher.

Claims 40-43 are rejected under 35 U.S.C. 102(b) as being anticipated by Lacoste (U.S. Patent No. 5,628,548).

Lacoste teaches the structure as claimed (See Figures 1-2 and the specification).

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Mackenzie et al, Insausti, Zubeck, Hudak, and Medeiros, Jr. teach similar structures to the present invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney B. White whose telephone number is (703) 308-2276.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Cuomo, can be reached on (703) 308-0827. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326.

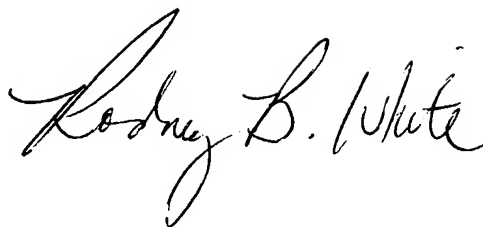
Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

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Rodney B. White,
Patent Examiner
Art Unit 3636
December 5, 2003

A handwritten signature in cursive script that reads "Rodney B. White". The signature is written in black ink and is positioned to the right of the typed name and date.